

REMARKS

By the present amendment, a complete reference to the Okada et al. (1994) article has been provided as required by the Examiner, and Claims 5-18 have been canceled without prejudice. For reasons as set forth below, Applicant respectfully traverses the rejection to Claim 1, and the present application has now been placed in condition for allowance.

In the Official Action, the Examiner objected to the specification for failing to provide a complete reference citation for Okada et al. (1994). By this Amendment, Applicant has amended the specification to include a complete citation for Okada et al. (1994), as shown in the attached Medline abstract, and no new matter has been added to the specification. Accordingly, the Examiner's objection to the specification has been respectfully traversed.

Further, in the Office Action, the Examiner noted that formal drawings are now required, and Applicant has submitted herewith formal drawings which comply with the objections to the drawings as set forth in Form 948 (Draftsman's Notice).

Finally, the Examiner rejected claim 1 under 35 U.S.C. §102(a) and (b) as being anticipated by the journal article entitled *Characterization of nra, a global negative regulator gene in group A streptococci*, to Podbielski et al. (hereinafter "Article"). However, this rejection is respectfully traversed in that the Article is not prior art of the present application under 102(a) or 102(b). To the contrary, the Article is in fact a reference relating to Applicant's own invention and was published less than one year prior to the present application filing date.

In this regard, Applicant submits herewith a Declaration Under 37 C.F.R. §1.131 (hereinafter "Declaration") which shows that subject matter of the Article was the inventive product of the present Applicant only, and that this subject matter is therefore not the product of another (see Declaration, paragraphs 1 and 2). As shown in the attached Declaration, the co-authors of the cited Article worked at the Applicant's direction and assisted the Applicant in preparing and writing the Article but did not contribute to the subject matter of the claimed invention (see Declaration, paragraph 3). Therefore, the claimed subject matter was not described in a printed publication by another and thus the Article is not prior art of the present application under 37 U.S.C. §102(a).

Accordingly, since the Article was published less than one year prior to the application filing date, it is not prior art to the present application under 35 U.S.C. §102(b). As shown in the Medline abstract of this Article attached hereto, this Article was published in February, 1999, and this is less than one year prior to the January 31, 2000 filing date of the present application. The Examiner's rejection of Claim 1 on the basis of the cited Article is thus respectfully traversed and should be withdrawn.

The Examiner's indication of that Claims 2-4 have been allowed is acknowledged with appreciation.

In view of the foregoing, it is respectfully submitted that the present application is in condition for immediate allowance, and such action is earnestly solicited.

Respectfully submitted,

LARSON & TAYLOR, PLC

Date: September 26, 2001

A handwritten signature in black ink, appearing to read "B. Aaron Schulman", written over a horizontal line.

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ATTACHMENT A

Added Material to Specification

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At the following location, please insert the following line:

Page 54, between lines 8 and 9:

B1 Okada, N., et al. (1994) *J. Clin Invest* **94**: 965-977.